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May 23, 2024

VIA ECF

The Honorable Jennifer E. Willis, U.S.M.J.
 United States District Court
 Southern District of New York
 40 Foley Square, Room 425
 New York, New York 10007

Re: **JOINT STATUS UPDATE PER COURT'S INITIAL CASE MANAGEMENT
 TELECONFERENCE ORDER**

Brockmole, et al. v. EZ Festivals LLC, et al.
Avchukov, et al. v. Avant Gardner, LLC, et al.
Palie, et al. v. EZ Festivals LLC, et al.
Ting, et al. v. Avant Gardner LLC, et al.

Case No. 1:23-cv-08106-VM (Consolidated)

Dear Judge Willis:

Our firm represents Defendants EZ Festivals LLC, Avant Gardner LLC, Made Event LLC, Jurgen Bildstein, CityFox, Reynard Productions, and AGDP Holding, Inc. in the above four putative class action lawsuits, and together with counsel for all Plaintiffs, we write, per Your Honor's Initial Case Management Telephone Conference Order dated April 24, 2024 (ECF No. 70), to provide status updates on pending motions in advance of the Initial Case Management Telephone Conference set for **May 29, 2024 at 12:30 p.m.**

First, the Order directs the parties "to submit a joint status update clarifying which claims the Motion[s to Dismiss filed by Defendants] seeks to dismiss, which Plaintiffs and Defendants are affected by the Motion, and which claims remain unaffected by the Motion to Dismiss." The following charts attempt clarify as requested:

<i>Motion to Dismiss Certain Defendants and Counts of the <u>Brockmole</u> Supplemental and Amended Class Action Complaint (ECF Nos. 46-48)</i>		
Plaintiffs and Defendants Affected	<u>Plaintiffs Affected</u>	<u>Defendants Affected</u>
	1. <i>Brockmole</i> Class	1. EZ Festivals LLC 2. Avant Gardner, LLC 3. Made Event LLC

		4. Jurgen Bildstein 5. Cityfox 6. Reynard Productions 7. AGDP Holding Inc.
Defendants Sought to be Dismissed	<ul style="list-style-type: none"> • Avant Gardner LLC • Jurgen Bildstein • Cityfox • Reynard Productions • AGDP Holding Inc.¹ 	
Claims Sought to be Dismissed	<ul style="list-style-type: none"> • Count I: Violation of RICO Section 1962(a) • Count II: Violation of RICO Section 1962(c) • Count III: Conspiracy to Violate RICO • Count IV: Fraud – Intentional Misrepresentation Reliance • Count VI: Breach of Implied Covenant of Good Faith and Fair Dealing 	
Claims Unaffected	<ul style="list-style-type: none"> • Count V: Breach of Contract • Count VII: Violation of N.Y. G.B.L. §§ 349 and 350 	

<i>Motion to Dismiss Certain Defendants and Counts of the <u>Avchukov</u> Consolidated Class Action Complaint (ECF Nos. 49-51)</i>		
Plaintiffs and Defendants Affected	<u>Plaintiffs Affected</u>	<u>Defendants Affected</u>
	1. <i>Avchukov</i> Class 2. <i>Palie</i> Class 3. <i>Ting</i> Class	1. Avant Gardner, LLC 2. EZ Festivals, LLC 3. Made Event, LLC 4. Jurgen Bildstein
Defendants Sought to be Dismissed	<ul style="list-style-type: none"> • Avant Gardner LLC • Jurgen Bildstein 	
Claims Sought to be Dismissed	<ul style="list-style-type: none"> • Count 3: Unjust Enrichment • Count 5: Fraud • Count 6: Negligent Misrepresentation • Count 7: Breach of the Covenant of Good Faith and Fair Dealing 	

¹ On May 21, 2024, undersigned counsel for Defendants filed notices of appearance and a joinder to the pending motion to dismiss in *Brockmole* on behalf of Defendants Cityfox, Reynard Productions, and AGDP Holding Inc. (ECF Nos. 85, 86).

	<ul style="list-style-type: none"> Count 8: Promissory Estoppel
Claims Unaffected	<ul style="list-style-type: none"> Count 1: Deceptive Practices Under N.Y. GBL § 349 Count 2: Breach of Contract Count 4: False Advertising Under N.Y. GBL § 350 Count VII: Violation of N.Y. G.B.L. §§ 349 and 350

Second, as to the Court's direction that "Plaintiffs shall also explain why no opposition was filed by the deadline of April 22nd," Plaintiffs assert that, in lieu of filing an opposition on April 22, on April 4, Plaintiffs filed an Amended Consolidated Class Action Complaint as of right within 21 days of Defendants' original motion to dismiss, as authorized under Rule 15(a)(1)(B) of the Federal Rules of Civil Procedure and Rule II.B.6. of the Individual Rules & Practices of the Honorable Margaret M. Garnett. A more fulsome explanation of the timing of and basis for Plaintiffs' filing of their Amended Consolidated Class Action Complaint is set forth in their opposition brief (*see* ECF No. 80, Sec. I) to Defendants' subsequently filed motion to strike or dismiss.

Lastly, as to the Court's directive that the parties "also provide a joint status update on the pending Motion to Strike and shall propose an agreed-upon briefing schedule," the parties previously agreed, and this Court So-Ordered (ECF No. 75), a briefing schedule on Defendants' pending motion to strike, or in the alternative to dismiss, the *Avchukov* Amended Complaint. (ECF Nos. 65-67). In accordance with the briefing Order, the *Avchukov-Palie-Ting* Plaintiff group filed their opposition on May 20, 2024. (ECF Nos. 80-81). Defendants' reply is due June 7, 2024.²

We look forward to discussing this consolidated case with Your Honor at the May 29, 2024 Initial Case Management Telephone Conference.

Respectfully submitted,

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² On May 21, 2024, undersigned counsel for Defendants filed notices of appearance and a joinder to the pending motion to strike, or in the alternative to dismiss, the *Avchukov* Amended Complaint on behalf of putative Defendant AGDP Holding Inc. (ECF Nos. 82, 84).

Hon. Jennifer E. Willis, U.S.M.J.

Re: *Brockmole, et al. v. EZ Festivals LLC, et al.* (1:23-cv-08106-VM)(Consolidated)

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